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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/845,752
Filing Date: April 30, 2001
Appellant(s): MURREN ET AL.

Nathan T. Grebasch (Registration No. 48,600)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/23/2007 appealing from the
Office action mailed 08/25/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,643,652

Helgeson

11-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-8 and 10-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Helgeson et al. (6,643,652) (hereinafter Helgeson).

3. As per claim 1, Helgeson discloses a server system, comprising:
one or more computers (elements of fig 1); and
an application executing on the computers to handle client requests,

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the application comprising (507, fig 5, col 6, lines 4-9; col 49, lines 19-21):
a business logic layer to process (505, fig 5) the client requests according to
a particular business domain and produce replies to be returned to the
clients in response to the client requests (business applications platform,
elements of fig 4, col 11, lines 39-62); and

a presentation layer separate from (decoupling data from
presentation, col 6, lines 45-50; col 49, lines 19-21), but in communication
with, the business logic layer to structure the replies in a manner that makes
the replies presentable on different types of client devices (col 2, lines 50-
67; col 6, lines 25-50; col 49, lines 19-21) according to a tag library
containing pre-constructed tags for a variety of data formats (col 2, lines 50-
67, col 51, lines 65-67, col 52, lines 1-2); and

a request dispatcher to structure a reply for service back to a client
device (col 2, lines 50-67, col 51, lines 65-67, col 52, lines 1-2), the request
dispatcher being configured to access the tag library to obtain tags to
structure the reply according to a particular data format (col 2, lines 50-67,
col 51, lines 65-67, col 52, lines 1-2).

4. As per claim 12, the claim is rejected for the same reasons as claim 1,
above.

5. As per claim 2, Helgeson discloses wherein the application is reconfigurable to other business domains by substituting other business logic layers that are designed to process the client requests according to the other business domains (see discussion of business applications server, col 6, lines 31-39).

6. As per claims 3 and 13, Helgeson discloses wherein the presentation layer is configured to determine a layout of content in the replies (see discussion of WDK, col 6, lines 44-50).

7. As per claims 4 and 14, Helgeson discloses wherein the presentation layer is configured to determine display attributes in the replies (web standards for XML and XSL, it provides a customizable framework for decoupling data from presentation, col 6, lines 44-50).

8. As per claims 5 and 15, Helgeson discloses wherein the different types of client devices support different data formats, the presentation layer being configured to select appropriate data formats for encoding the replies (web standards for XML and XSL, it provides a customizable framework for decoupling data from presentation, col 6, lines 44-50).

9. As per claims 6 and 16, Helgeson discloses wherein the different types of client devices support different communication protocols, the presentation layer being configured to select appropriate communication protocols for delivering the replies to the clients (413, 408, 405, fig 4, col 11, lines 39-67).

10. As per claims 7 and 26, Helgeson discloses, wherein the presentation layer is configured to determine how to display the replies for a particular client (413, 408, 405, fig 4, col 11, lines 39-67; col 6, lines 44-50; web standards for XML and XSL, it provides a customizable framework for decoupling data from presentation).

11. As per claim 8, Helgeson discloses, wherein the presentation layer comprises: a presentation tier to determine how the replies will appear on the client devices to users (col 6, lines 44-50; web standards for XML and XSL, it provides a customizable framework for decoupling data from presentation); and

a rendering tier, separate from the presentation tier, to determine how to render the replies on the client devices (web standards for XML and XSL, it provides a customizable framework for decoupling data from presentation,

col 6, lines 44-50; col 51, lines 46-67, see discussion of creating the HTML documents).

12. As per claims 10 and 25, Helgeson discloses wherein the request dispatcher is configured to select a communication protocol to be used to serve the reply back to the client device (413, 408, 405, fig 4, col 11, lines 39-67).

13. As per claim 11, Helgeson discloses, wherein the presentation layer further comprises a content renderer to conform the reply structured by the request dispatcher to output capabilities of the client device

to which the reply will be returned (web standards for XML and XSL, it provides a customizable framework for decoupling data from presentation, col 6, lines 44-50; col 51, lines 46-67, see discussion of creating the HTML documents).

14. As per claim 17, the claim is rejected for the same reasons as claim 1, above. In addition Helgeson discloses, wherein the rendering component is configured to conform the reply to a specific display at the particular client (col 51, lines 61-63).

15. As per claim 18, the claim is rejected for the same reasons as claims 1 and 5, above.

16. As per claims 19 and 30, Helgeson discloses wherein the presentation tier is configured to determine at least one of (1) a layout of the data (all style and presentation for given page, col 51, lines 35-46), (2) a color scheme in which to present the data (all style and presentation for given page, col 51, lines 35-46), (3) a presentation theme, and (4) a particular skin appearance (all style and presentation for given page, col 51, lines 35-46).

17. As per claims 20, 28, and 29, Helgeson discloses wherein the presentation tier is configured to select a data encoding format for encoding the data and a communications protocol in which to send the data to the client device (col 57 lines 47-48; col 86, lines 35-51).

18. As per claim 21, Helgeson discloses wherein the presentation tier comprises multiple dispatchers, each dispatcher being configured to encode the data according to a particular encoding format (col 57 lines 47-67).

19. As per claim 22, Helgeson discloses wherein the presentation tier comprises multiple dispatchers, each dispatcher being configured to package the data according to a particular communications protocol (delivery service, col 86, lines 35-51).

20. As per claim 23, Helgeson discloses wherein the presentation tier comprises:

a tag library containing pre-constructed tags for a variety of data formats (col 51, lines 47-52); and

a request dispatcher to structure a reply for service back to a client device, the request dispatcher being configured to access the tag library to obtain tags to structure the reply according to a particular data format (web standards for XML and XSL, it provides a customizable framework for decoupling data from presentation, col 6, lines 44-50; col 51, lines 46-67, see discussion of creating the HTML documents).

21. As per claim 24, the claim is rejected for the same reasons as claim 1, above. In addition, Helgeson discloses multiple request dispatchers to structure replies to be returned to client devices in response to requests submitted by the client devices, individual request dispatcher formatting data according to particular formats that are supported by the client devices

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protocol according to the tag library (col 11, lines 39-67, col 51, lines 47-67); and

content renderer to conform the replies to output capabilities of the client devices to which the replies are to be returned (col 11, lines 39-67, col 51, lines 47-67, see discussion of creating the HTML documents).

22. As per claim 27, the claim is rejected for the same reasons claim 1 and 24, above.

23. As per claim 31, the claim is rejected for the same reasons claim 1 and 23, above.

24. As per claim 32, Helgeson discloses wherein the configuring comprises sizing the reply for a display at the client (col 51, lines 47-67 and col 52, lines 1-10).

25. As per claim 33, the claim is rejected for the same reasons as claims 1 and 8, above.

26. As per claim 34, the claim is rejected for the same reasons as claim 23, above.

(10) Response to Argument

In general, Appellant arguments reflect a difference of opinion over the teachings of the prior art and how these teachings would be evaluated in light of the knowledge generally available to those in the appropriate art and the level of ordinary skill in the art. Moreover, Appellant takes an overly narrow view of the claim language.

Appellant is of the opinion that the prior art of Helgeson does not specifically teach Appellant's claimed system because the prior art lacks:

- a). **a business logic layer** (brief, page 14, line 9) to **process the client requests according to a particular business domain** (brief, page 15, lines 21-23) and produce replies to be returned to the clients in response to the client requests (brief, page 17, lines 20-21);
- b). a presentation layer separate from, but in communication with, the business logic layer to structure the replies in a manner that makes the replies presentable on different types of client devices according to **a tag library** (brief, page 18, line 1) containing pre-constructed tags for a variety of data formats;
- c). **a request dispatcher** (brief, page 18, line 21) to structure a reply for service back to a client device, the request dispatcher being configured to access the tag library to **obtain tags to structure the reply according to a particular data format** (brief, page 19, line 2).

The examiner respectfully disagrees.

Appellant's system is directed to an apparatus. Therefore, software runs on the apparatus or how the apparatus function will not differentiate the claims from the prior art. More specifically, it has been held that while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function alone. (MPEP 2214; *In re Swineheart*, 169 USPQ 226; *In re Schreiber*, 44 USPQ2d 1429 (Fed. Cir. 1997)). And software stored in computer memory will not differentiate a claimed computer from the prior art. *In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II

Hence, as the prior art teaches applicants computer (SABA BUSINESS PLATFORM, fig 17, col 134, lines 54-65), it is sufficient in terms of art, and how the computer process requests and uses to produce replies does not further limit the scope of the Appellant claim.

Nonetheless, prior art teaches, as stated from representative Claim 1, a business logic layer (421, fig 4, the business server embodies the containers which incorporate all of the business logic, common business objects, SABA core objects, and a database driven framework for querying database and transmitting replies to interface server.) to process the client

requests (401,407,411, fig 4) according to a particular business domain and produce replies to be returned to the clients (417, fig 4,) in response to the client requests (elements of fig 4 and SABA BUSINESS PLATFORM, fig 17, col 134, line 54 to col 35 line 27); a presentation layer (5021, fig 17, the interface server then performs style sheet transformations on the XML using XSL or XSLT to translate the XML message into the particular Applications Programming Interface (API) language required to communicate with a particular user. For example, if a particular user is accessing the Platform via a workstation, the Interface Server can convert the XML into HTML and communicate with the user through a web server via the Internet. The Interface Server can also convert the XML into other protocols such as WAP/WML to communicate with Personal Data Assistants (PDAs) such as cell phones, Palm Pilots or other such wireless devices), separate from, but in communication with, the business logic layer (421, fig 4) to structure the replies in a manner that makes the replies presentable on different types of client devices according to a tag library (864, Fig 8B, col 50, lines 30-30; col 51, line 36, line 51, lines 65-67) containing pre-constructed tags (864, Fig 8B, col 50, lines 30-30) for a variety of data formats (5027, fig 17, col 50, lines 30-52; col 51, line 36, line 51, lines 65-67, the interface server then performs style sheet transformations on the XML using XSL or XSLT to translate the XML message into the particular Applications Programming

Interface (API) language required to communicate with a particular user.

For example, if a particular user is accessing the Platform via a workstation, the Interface Server can convert the XML into HTML and communicate with the user through a web server via the Internet. The Interface Server can also convert the XML into other protocols such as WAP/WML to communicate with Personal Data Assistants (PDAs) such as cell phones, Palm Pilots or other such wireless devices); a request dispatcher to structure a reply for service back to a client device, the request dispatcher being configured to access the tag library (tag libraries and widget libraries are used in the Saba Business Platform Architecture to provide capability of dynamic content generation, widgets are used in the transform step and are an aid to end-content generation. Tag libraries are implemented in Java, whereas widgets are preferably implemented as stylesheets. 864, fig 8B) to obtain tags to structure the reply according to a particular data format (fig 8A-8C, 417, fig 4, col 50, lines 30-52; col 51, line 36, line 51, lines 65-67).

For all these reasons, claim 1, is properly rejected under U.S.C. 102(e) as being anticipated by Helgeson et al.

Appellant's Argument: Helgeson fails to disclose the application is reconfigurable to other business domains by substituting other business logic

layers that are designed to process the client requests according to the other business domains (brief, page 20, lines 15-18).

Examiner Response: Helgeson discloses wherein the application is reconfigurable to other business domains by substituting other business logic layers that are designed to process the client requests according to the other business domains (Helgeson invention relates to systems and processes to be used in a business systems platform generally used to integrate disparate business applications systems in an efficient manner, across multiple hardware platforms; see discussion of business applications server, col 4, lines 54-67; col 6, lines 31-39; col 134, lines 54-65; col 136, lines 53-67).

Appellant's Argument: Helgeson fails to teach a tag library containing pre-constructed tags (brief, page 21, line 12).

Examiner Response: Helgeson discloses a tag library containing pre-constructed tags (864, Fig 8B, col 50, lines 30-30).

Appellant's Argument: Helgeson fails to teach the presentation component to construct how a reply will appear through use of a tag library containing pre-constructed tags (brief, page 22, lines 3-5).

Examiner Response: Helgeson teaches the presentation component (800, fig 8A; 5021, fig 17, col 6, lines 43-50; col 50, lines 29-52) to construct how a reply will appear through use of a tag library containing pre-constructed tags (800, fig 8A; 5021, fig 17, col 6, lines 43-50; col 50, lines 29-52).

Appellant's Argument: Helgeson fails to teach to determine a layout of content and determine display attributes for reply (brief, page 22, line 13-15).

Examiner Response: Helgeson teaches to determine a layout of content and determine display attributes for reply (800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52).

Appellant's Argument: Helgeson fails to teach a presentation tier to determine how data for communication to a client device is to be presented on the client device through use of a tag library containing pre-constructed tags for a variety of data formats; and a rendering tier, separate from the presentation tier, to determine how to render the data on the client device (brief, page 23, lines 11-15).

Examiner Response: Helgeson teaches a presentation tier (800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52) to determine how data for communication to a client device is to be presented on the client device

through use of a tag library containing pre-constructed tags for a variety of data formats; and a rendering tier (800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52), separate from the presentation tier, to determine how to render the data on the client device.

Note: The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined.

As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See MPEP 2106.

Appellant's Argument: Helgeson fails to teach wherein the presentation tier is configured to determine at least one of (1) a layout of the data, (2) a color scheme in which to present the data, (3) a presentation theme, and (4) a particular skin appearance (brief, page 24, lines 21-23).

Examiner Response: Helgeson teaches wherein the presentation tier is configured to determine at least one of (1) a layout of the data, (2) a color scheme in which to present the data, (3) a presentation theme, and (4) a particular skin appearance (800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52; col 79, line 46).

Note: The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined.

As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See MPEP 2106.

Appellant's Argument: Helgeson fails to teach a request dispatcher to structure the data using the tags from the tag library, the tags being selected to structure the data in a manner that is supported by the client device (brief, page 26, lines 9-12).

Examiner Response: Helgeson teaches a request dispatcher to structure the data using the tags from the tag library, the tags being selected to structure the data in a manner that is supported by the client device (800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52).

Appellant's Argument: Helgeson fails to disclose a tag library for a variety of data format; multiple request dispatchers to structure replies to be returned to client devices in response to requests submitted by the client devices, individual request dispatcher formatting data according to particular

formats that are supported by the client devices according to the tag library; and content renderer to conform the replies to output capabilities of the client devices to which the replies are to be returned (brief, page 27, lines 16-20).

Examiner Response: Helgeson teaches a tag library (864, Fig 8B, col 50, lines 30-30) for a variety of data format; multiple request dispatchers (multiple dispatchers are nothing than templates holding data types, elements of fig 8B) to structure replies to be returned to client devices in response to requests submitted by the client devices (411,407, 401 fig 4), individual request dispatcher formatting (elements of fig 8B) data according to particular formats that are supported by the client devices according to the tag library (800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52); and content renderer to conform the replies to output capabilities of the client devices (411,407, 401 fig 4) to which the replies are to be returned (800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52).

Appellant's Argument: Helgeson does not disclose structuring the reply to define how the reply will appear when communicated to and presented at the client through use of a tag library containing pre-constructed tags for a variety of data formats; and independent of said structuring, conforming the reply to output capabilities of the client (brief, page 29, line 10).

Examiner Response: Helgeson teaches structuring the reply to define how the reply will appear when communicated to and presented at the client through use of a tag library (864, Fig 8B, col 50, lines 30-30) containing pre-constructed tags for a variety of data formats (800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52); and independent of said structuring, conforming the reply to output capabilities of the client (411,407, 401 fig 4; 800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52).

Appellant's Argument: Helgeson does not generate replies in response to client request and does not from individual replies for output capabilities of the client devices (brief, page 30, line 26 to page 31 line 5).

Examiner Response: Helgeson teaches generate replies (800, fig 8A; 5021, fig 17) in response to client request and does not from individual replies for output capabilities of the client devices (411,407, 401 fig 4; 800, fig 8A; 5021, fig 17; col 6, lines 43-50; col 50, lines 29-52).

Note: The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined.

As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or

does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See MPEP 2106.

For all these reasons, claims 1-8 and 10-34 are properly rejected under U.S.C. 102(e) as being anticipated by Helgeson et al. Independent claims 1, 12, 18, 24, 27, and 33 are properly rejected for the same reasons as discussed above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,


Mohammad Siddiqi

Mohammad Siddiqi


NATHAN FLYNN
SUPERVISORY PATENT EXAMINER

Conferees:


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100


NAT
SUPERVISORY PATENT EXAMINER


NATHAN FLYNN
SUPERVISORY PATENT EXAMINER